

23. DEC. 2004 12:25

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NO. 1434 P. 5

COPY : Dec. 23, 2004

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Milan,
August 26, 2004

Guido MODIANO (Reg. No. 19,928)

Agent's Docket N. 35106/MEL/rt

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 23 2004

In re application of:)
Applicant: ZENTI, Maximiliano)
Ser. No.: 09/913,317) Group Art Unit: 3643
Filed: August 10, 2001) Examiner: PARSLEY, DAVID J
For: SOD COMPRISING AGRICULTURAL COMPONENTS...)

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450 USA

STATEMENT ESTABLISHING UNINTENTIONAL DELAY IN PETITION OF APPLICATION
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Sir,

Applicant's representative first became aware of the abandonment of the present application on August 25, 2004. The delay in discovering the abandoned status of the application has occurred despite the exercise of due care and diligence on the part of applicant and his representative.

Applicant's representative duly received the pending Office notice dated February 6, 2004 and, as usual, introduced the expiry date for responding to the Office notice Action in his computerized system.

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However, an error occurred when the applicant's representative, as it normally happens, wrote by hand the expiry date on the front page of the Office notice (Annex 1).

As it can be seen, the expiry date was erroneously set as May 26, 2004. Please note that the date is written in the European format wherein the day of the month precedes the month and so it reads 26-05-2004.

Following this error, the person who types the expiry date, without extension of times, in the computerized system "*correctly*" entered May 26, 2004 (Annex 1A, with partial English translation) and from then on the computer kept warning the applicant's representative about the final expiry date, including extensions of time, which was erroneously August 26, 2004 (Annex 2, with partial English translation).

As it can be seen, the error of the applicant's representative was totally unintentional and so the corresponding delay.

In fact, only on August 25, when the response to the Office notice was ready to file, -by facsimile transmission-, a further check of the expiry date in order to calculate the correct extension of time fees revealed the error and only on that occasion the applicant's representative became aware that the real expiry date, including the extensions of time, was August 6, 2004 instead of August 26, 2004.

The applicant's representative is confident that the present petition to revive will be positively considered since the delay was totally unintentional and only due to an initial typing error of the issue date of the Office notice. The applicant never expressed any intention to abandon the application and provided the applicant's representative with instructions to respond to the Office notice.

It is believed that the above is a sufficient showing of due care and diligence and of how the delay in discovering the abandoned status of the application occurred in spite of such exercise of due care and diligence.

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August 26, 2004

Respectfully submitted,



Guido MODIANO (Reg. No. 19,928)
Agent for the Applicant

Date: August 26, 2004
Address: Via Meravigli 16, 20123 MILAN-ITALY
Telephone: (from USA) (011)(39)(02)8590-7777
Telefax: (from USA)(011)(39)(02)863-860